99TH CONGRESS
2d Session

SENATE

REPORT
99-411

THE COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986

AUGUST 15 (legislative day, AUGUST 11), 1986.—Ordered to be printed

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Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 1903]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1903) to improve the safe operation of commercial motor vehicles, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to help prevent truck and bus accidents, fatalities and injuries by establishing national standards for commercial drivers' licenses and requiring drivers to have a single commercial license and driving record; by increasing safety inspections of commercial motor vehicles and inspections of their drivers for alcohol and drug use; and by increasing and extending authorizations for State grants through the Motor Carrier Safety Assistance Program (MCSAP).

BACKGROUND AND NEEDS

Motor carrier safety is an issue of continuing concern to the Committee. The Committee has conducted numerous hearings and reported legislation on this issue in the 95th through the 99th Congresses.

In 1982, a major step was taken to improve motor carrier safety with the enactment of the Surface Transportation Assistance Act of 1982 (Public Law 97-424). This act authorized a total of more than $150 million over fiscal years 1983 through 1988 to enable the Department of Transportation (DOT) to provide grants to States for enforcement of Federal and compatible State motor carrier safety regulations, which became MCSAP. Under this program, 49 States

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and territories received grants in fiscal year 1986, which they are using to increase, among other things, safety inspections of motor carrier drivers and equipment.

In 1984, the Congress further advanced commercial vehicle safety through the Motor Carrier Safety of 1984 (Public Law 98–554), which provides for the following: a more effective system of penalties for violations of the Federal motor carrier safety regulations; equipment inspections at least annually; a review system whereby State regulations which do not promote safety can be preempted by DOT; and meaningful safety fitness criteria for new entrants into the truck and bus industries.

These enactments have helped motor carrier safety, but the following tables showing interstate motor carrier accidents indicate that more needs to be done:

TABLE 1.—MOTOR CARRIERS OF PROPERTY

	1983	1984	1985
Total reported accidents	31,628	36,854	39,030
Injuries	26,092	29,149	28,808
Fatalities	2,528	2,721	2,676
Property damages	$342,940,000	$404,100,000	$404,500,000
Accident rate per million miles	1.15	1.22	(1)
Fatality rate per 100 million miles	9.6	8.22	(1)
Injury rate per million miles	.66	.68	(1)

[1] Not available.

TABLE 2.—MOTOR CARRIERS OF PASSENGERS

	1983	1984	1985
Accidents reported	251	636	763
Injuries	411	1,049	1,577
Fatalities	33	44	64
Property damage	$6,802,000	(1)	(1)

[1] Not available.

Source: U.S. Department of Transportation, Bureau of Motor Carrier Safety.

These tables do not tell the whole story. DOT statistics show that intrastate truck accidents claim another 2,000 lives each year. For these reasons, the Committee believes it is critically important to improve motor carrier safety in the following areas:

1. Most commercial motor vehicle drivers are qualified professionals. To ensure that all commercial motor vehicle drivers are qualified, however, it is necessary to develop national commercial drivers' licensing standards. Today, 20 States will issue a license entitling any individual who merely passes a regular motorist test in a compact car to drive a tractor semi-trailer truck nationwide.

It is especially important to establish these standards for drivers transporting hazardous materials. On July 8, 1986, the Office of Technology Assessment (OTA) released a study requested by the Committee on hazardous materials transportation which included the finding that human factors, rather than equipment shortcomings, cause 62 percent of reported vehicle accidents and hazardous materials spills. Noting the importance of an adequately prepared

driver as an accident prevention tool, the OTA study recommended the creation of a national motor carrier driver's license, with special certification requirements for hazardous materials drivers. Current national Bureau of Motor Carrier Safety requirements include a written test of 66 questions which a driver does not need to pass and which has only eight questions pertaining to hazardous materials transportation. Only California and Michigan require additional special qualifications for hazardous materials drivers. The Committee concurs with OTA's assessment that the protection of both drivers and the public requires that more be done to ensure that drivers of hazardous materials are adequately prepared to transport safely such materials and to respond appropriately in the event of an accident.

It is also important to establish Federal standards that curb alcohol abuse by commercial drivers. On February 18, 1986, the Committee held hearings that identified alcohol abuse as a serious problem in all the transportation industries. Employees in the railroad and airline industries are prohibited from operating these forms of transportation while having 0.04 percent or more blood alcohol content (BAC). Setting 0.04 as the standard for the suspension or revocation of commercial drivers' licenses is one method of controlling alcohol abuse in the motor carrier industry.

2. The practice of multiple license use by commercial drivers must be stopped. In 1962, the States developed the Drivers License Compact, which is a voluntary cooperative effort whose major objectives are the development of a one-license/one record concept. These voluntary efforts have been unsuccessful. A 1981 National Highway Traffic Safety Administration (NHTSA) study entitled, "Multiple Licensing and Interstate Truck Drivers," found, for example, that over 32 percent of South Carolina's, over 29 percent of Alabama's, and almost 22 percent of California's interstate truck drivers had more than one license. Multiple licenses allow interstate commercial drivers to spread their traffic violations over a number of licenses, and maintain a "good driver" rating regardless of the number of violations.

3. There is a need for more frequent, roadside spot checks of commercial motor vehicles and for more checks of commercial drivers for alcohol and drug abuse.

4. Funding authorizations for MCSAP grants must be increased and extended to increase current inspection programs, provide for more frequent roadside spot checks of commercial vehicles and drivers, and improve driver licensing.

Legislative History

On December 5, 1985, Senator Danforth introduced, on behalf of Senator Packwood and himself, the "Commercial Motor Vehicle Safety Act of 1985" (S. 1903), which was referred to the Committee. On July 15, 1986, the Committee held a hearing on S. 1903. Testimony was presented by DOT, citizen groups, and representatives of industry, labor, and the States concerning commercial licensing standards, the multiple license problem, the appropriate BAC standard for commercial drivers, the need for increased inspec-

tions, and the need for an increase in and extension of MCSAP funding.

On August 7, 1986, the Committee met in open executive session to consider S. 1903. The Committee by voice vote agreed to an amendment in the nature of a substitute, and ordered the bill, as amended, to be reported favorably.

Summary of Major Provisions

As reported, S. 1903 would:

1. Direct DOT to establish Federal minimum standards for licensing, testing, qualification and classification of commercial drivers. These standards would: (1) Prohibit commercial drivers from possessing more than one commercial license; (2) require that commercial drivers pass meaningful written and driving tests; (3) include special qualifications for hazardous materials drivers; and (4) provide that a driver found to have a 0.04 percent or more BAC would receive a 1-year license suspension for the first offense and permanent license revocation for the second offense.

2. Direct the States to issue and administer licenses consistent with the DOT standards. A total of $8 million would be authorized during each of fiscal years 1987 through 1991 to assist the States in complying with Federal licensing standards. States that do not comply with the Federal licensing standards would be subject to highway funding sanctions.

3. Direct DOT to ensure that a commercial drivers license information system is established so that the States could determine if a license applicant had another license, and transmit and receive driver record information to stop unsafe drivers from operating commercial vehicles. There would be $2 million authorized for the start up of this system, and user fees would cover the costs of its operation.

4. Provide for increased motor carrier equipment inspections and commercial driver alcohol and drug checks through the existing MCSAP program.

5. Increase and extend funding authorizations for MCSAP, which continues to be a successful program. Currently, the program has authorization levels of $40 and $50 million for fiscal years 1987 and 1988, respectively. Authorization levels for fiscal years 1987 and 1988 would increase to $50 and $60 million, respectively. There would be new authorizations for fiscal years 1989 and 1990 of $70 million and $80 million, respectively.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 8, 1986.

Hon. JOHN C. DANFORTH,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 1903, the Commercial Motor Vehicle Safety Act of 1986, as ordered reported by the Senate Committee on Commerce, Science, and Transportation, August 7, 1986.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1903.

2. Bill title: Commercial Motor Vehicle Safety Act of 1986.

3. Bill status: As ordered reported by the Senate Committee on Commerce, Science and Transportation, August 7, 1986.

4. Bill purpose: S. 1903 would require the Secretary of Transportation to promulgate regulations establishing minimum federal standards for licensing, testing, qualifications and classification of operators of commercial motor vehicles. The bill also establishes minimum standards for such regulations and additional standards for hazardous material drivers. Each state would be required to adopt and administer a classified licensing program for operators of commercial motor vehicles, subject to federal minimum standards, by September 1, 1989.

The bill authorizes the Secretary of Transportation to make grants to states for testing and licensing of commercial motor vehicle operators. A total of $8 million would be available in each of fiscal years 1987 through 1991 for these grants from funds otherwise authorized for motor carrier safety grants and highway traffic safety grants. The Secretary would be required to withhold federal-aid highway funds from any state not in compliance with these requirements by September 30, 1990.

S. 1903 would require the establishment of a commercial drivers license information system, which could be administered by the states, by the Secretary of Transportation, or through a joint effort. The bill directs the states or the Secretary, as appropriate, to collect fees for the use of this system, which should approximately equal the costs of its operation, and makes available $2 million in fiscal year 1987 from funds authorized for motor carrier safety grants for the initial costs of establishing the system.

Authorizations for the motor carrier safety assistance program would be increased by $10 million in each of fiscal years 1987 and 1988. S. 1903 also authorizes appropriations of $70 million and $80 million in fiscal years 1989 and 1990, respectively, for this program.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
Authorization level	10	10	70	80	.....
Estimated outlays	8	10	55	75	20

In addition to the costs shown above, the bill would authorize the use of up to $3 million annually from the highway traffic safety grant program for grants to states to implement the required licensing and testing. That grant program is not yet authorized beyond 1986, and this bill does not include such authorization.

The cost of this bill fall within budget function 400.

Basis of estimate

It is assumed that the full amounts authorized will be appropirated. The outlay estimate is based on the historical spending rates for the various activities.

CBO also assumes that any costs incurred by the Secretary of transportation in operating the commerical drivers license information system will be offset by the fees provided for in the bill. The costs of establishing necessary regulations are not expected to be significant.

6. Financing mechanism: This legislation authorizes funding to be provided in subsequent appropriation bills. This cost estimate shows the amount of budget authority that is authorized to be appropriated. The estimated outlays are those that would be generated if the Congress chooses to fully fund the authorized amounts.

7. Estimated cost to State and local Governments: The bill requires states to administer a testing and licensing program for commercial motor vehicle operators, and authorizes grants to states for the purpose. Based on information provided by the Department of Transportation, however, CBO expects that the cost incurred by some states to fulfill the requirements of this bill will exceed the funds made available. In the time available, CBO has not been able to estimate the amount of such additional costs to states. States may cover some or all of such costs by increasing their licensing fees.

States may be responsible for administering the licensing information system required by this bill. CBO expects, however, that these costs can be offset by fees charged to users of the system.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Marjorie Miller

11. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation.

Economic Impact

This bill earmarks modest amounts of the existing MCSAP and NHTSA highway safety grant funds for improved State commercial driver licensing programs. Funds are also authorized to start a system whereby States can communicate commercial license and record information. This "seed money" will have to be supplemented by increased drivers' licensing fees from commercial drivers as well as fees from their employers to support improved communication of commercial license and record information. These funding levels and increased fees are envisioned to be modest and are not expected to have an inflationary impact on the Nation's economy. Given the likely reduction in motor carrier fatalities, injuries and property damage, these expenditures should have a beneficial effect on the Nation's economy.

NUMBER OF PERSONS COVERED

Currently, a person who wants to drive a commercial motor vehicle must obtain a license that is issued by a State. S. 1903 establishes standards that the States must follow when they issue and administer licenses to both interstate and intrastate commercial drivers. To date, the Federal Government has supervised minimally the qualification of interstate commercial drivers and exercised no control over the qualification of intrastate commercial drivers. The uneven quality of State licensing programs and the multiple license problem require increased Federal control to ensure that all commercial drivers are skilled individuals who are held accountable through a single commercial license and record.

PRIVACY

S. 1903 will not affect the existing privacy rights of commercial drivers. The legislation will permit, to the extent authorized by law, an inquiring State, employer or prospective employer to obtain a person's commercial driving record, but only to the extent authorized by law.

PAPERWORK

Section 4(a) of the bill, as reported, requires DOT to initiate a rulemaking to establish standards for commercial motor vehicle licenses. DOT is prepared to initiate this rulemaking because it has done extensive work to develop written and road tests for commercial drivers and has developed a model classified drivers' license system. In fact, DOT has already initiated rulemaking procedures regarding a single and classified licensing system and qualifications of hazardous materials drivers. To the extent that such efforts are consistent with this Act, they can be used in complying with its requirements. Under section 4(c), the States are required to adopt these standards or more stringent ones. Section 5 requires DOT to initiate a rulemaking concerning a commercial drivers' license information system. The States will be required to participate in this system. This participation will not place a long-term paperwork burden on the States because the permanent system will provide

for the rapid transmission of license and record information instead of transfers of paper records.

SECTION-BY-SECTION ANALYSIS

SECTION 1—SHORT TITLE

This section states that the short title of this bill is the "Commercial Motor Vehicle Safety Act of 1986".

SECTION 2—PURPOSE

This section states that the purpose of the bill is to enhance the safe operation of commercial motor vehicles on the Nation's highways by developing national uniform standards for the testing, licensing, and qualification of commercial motor vehicle operators, and by increasing inspections of commercial mortor vehicle operators and the equipment they operate. This section reflects the Committee's concern that additional action must be taken to deal with increases in accidents involving commercial motor vehicles.

SECTION 3—DEFINITIONS

This section defines various terms as used throughout the bill.

Section (3)(1) defines "commerce" in a way that encompasses both interstate and intrastate trade, traffic or transportation. "Commerce" includes trade, traffic or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State (including a place outside of the United States); or trade, traffic, or transportation in the United States *which affects* the above described trade, traffic or transportation. The "which affects" language is intended to include those who are moving between two points in a single State because they are a significant part of the larger motor carrier safety problem. For example, DOT statistics indicate that in 1984 intrastate truck accidents claimed over 2,000 lives. Moreover, the multiple license problem will remain unsolved if a motor carrier operator is allowed to possess separate interstate and intrastate commercial driver licenses.

Furthermore, the Committee understands that it would not be practical for the States to establish two distinct licensing programs for interstate and intrastate drivers, as it would be difficult for the States to distinguish between drivers. Thus, one licensing program covering both interstate and intrastate commerce seems appropriate.

The definition of "commercial motor vehicle" in section 3(2) includes vehicles used on highways in commerce that are: (A) above a floor gross vehicle weight rating level of 26,001 pounds, except that the Secretary of Transportation (the "Secretary") may establish different floor gross vehicle weight ratings between 10,000 and 26,001 pounds for different types of vehicles; (B) designed to transport more than 15 passengers; or (C) used in the transportation of hazardous materials found to be hazardous by the Secretary for purposes of the Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq. While the Committee agrees that a program covering vehicles with a gross weight rating of 26,001 or more will be manageable and address the safety concerns surrounding heavier vehi-

cles, the weight limit provision in section 3(2)(A) is designed to give the Secretary discretion to apply the bill to the universe of drivers that the Secretary determines pose significant safety risks. Section 3(2)(A) is not intended to include rental vehicles (i.e., vehicles leased for a short period of time) with a gross vehicle weight rating of less than 26,001 pounds within the definition of commercial motor vehicles. Most rental vehicles are either used for non-commercial purposes or driven part-time for a business on an occasional basis.

Section 3(2)(B) applies to all vehicles designed to transport 15 or more persons. This is intended to include school buses as well as other motor carrier passenger vehicles. Under section 3(2)(C), vehicles transporting hazardous materials would be covered even if they did not meet the weight limit established by the Secretary under section 3(2)(A), because of the potentially greater safety dangers in this area. The Secretary has the authority under section 4(a)(2) of the bill, however, to waive application of the Act to the drivers of vehicles that do not meet the weight rating thresholds the Secretary establishes under section 3(2)(A) and are carrying hazardous materials in such limited quantities or of such limited risk that they pose minimal danger.

This section also defines "employee," "employer," "Secretary," "State," and "United States".

SECTION 4—NATIONAL UNIFORM COMMERCIAL MOTOR VEHICLE OPERATORS LICENSE

(a) The Secretary of Transportation is required to promulgate minimum Federal standards not later than March 1, 1988

This section provides that the Secretary shall promulgate regulations establishing minimum Federal standards for licensing, testing, qualifications and classification of commercial vehicle operators. Some of the regulations required by this section are more controversial or complicated than others. Thus, the Committee expects the Secretary to promulgate certain of these regulations before others.

Turning to specific regulations required under section 4(a), the Committee expects that at the earliest date possible the Secretary will start the effort to control the multiple license problem by promulgating a regulation under section 4(a)(1)(A) prohibiting commercial drivers from possessing multiple commercial licenses.

Section 4(a)(1)(B) will help eliminate unqualified commercial drivers by establishing minimum Federal standards for written tests and driving tests. Under section 4(a)(1)(C), the operators' driving tests will require them to demonstrate the ability to operate the type of vehicle for which they seek a license. This will end the practice of granting heavy truck licenses to persons who have taken a driving test in a passenger automobile. The Secretary is given discretion to promulgate regulations permitting the States to waive the driving test requirement for the renewal of the commercial license of a person with a clean record on the person's commercial driver's license. Section 4(a)(1)(D) requires minimum passing scores for the written and driving tests. This will end the practice of not requiring an applicant to have a minimum passing score.

The Committee understands that establishing a minimum score will require approval by the Equal Employment Opportunity Commission. DOT has been able, however, to obtain such approval for other tests such as aviation pilot tests.

Section 4(a)(1)(E) requires license applicants to meet qualifications established by regulations promulgated under this bill, the Federal Motor Carrier Safety Regulations (FMCSR) medical requirements, and other FMCSR requirements considered appropriate by the Secretary.

Section (4)(A)(1)(F) requires the Secretary to establish a schedule of commercial driver offenses and corresponding suspensions and revocations. This schedule would provide that a commercial driver found to have a BAC of 0.04 percent or more would have the driver's license: (1) promptly suspended for a year on the first offense; and (2) immediately and permanently revoked on the second offense. The words "prompt" and "immediate" are not intended to put an undue burden on those States where suspension and revocations of a commercial driver's license is part of their criminal legal process. DOE should encourage these States, however, to develop expeditious procedures for eliminating those who operate commercial vehicles under the influence of alcohol from our highways. Committee hearings have identified alcohol abuse as a serious problems in all the transportation industries. This provision would hold truck drivers who operate vehicles that in many cases weigh 60,000 to 80,000 pounds, bus drivers who drive vehicles designed for a minimum of 15 passengers, and hazardous materials drivers, to the 0.04 percent standard that is used for transportation professionals in the airline and railroad industries. Scientific studies on the impairing effects of alcohol support a 0.04 percent standard. Studies such as Moskowitz's, "Skills Performance at Low Blood Alcohol Concentrations," Journal of Studies on Alcohol 46: 482–485, 1985, and Laurell's "Effects of Small Doses of Alcohol on Driver Performance in Emergency Situations, Accident Analysis and Prevention 9: 191–201, 1977, have found that BAC levels of 0.04 impair a person's ability to react properly in emergency situations. Other studies have found that BAC levels of 0.04 impair a driver's ability to follow other cars and increase the number of errors a driver makes in steering adjustments and in anticipating signals. Landauer and Howat, "Low and Moderate Alcohol Doses, Psychomotor Performance and Perceived Drowsiness" *Ergonomics* 26: 647–657, 1983; and "The Effects of Fatigue and Alcohol on Highway Safety at 28–42" (National Highway Traffic Safety Administration 1981.) Highway Traffic Safety Administration 1981.)

Under section 4(a)(1)(G), the Secretary shall establish a classification system that provides different minimum testing standards for operators of different classes of commercial motor vehicles (e.g., buses, "straight" trucks, tractor-trailer combinations and tractors with twin trailers).

Section (4)(a)(1)(H) describes the types of information that at a minimum must be contained in commercial drivers' licenses. Subsection 4(a)(1)(H)(ii) is particularly important because it requires inclusion of the information needed to identify iniquely such drivers (e.g., a social security number, or fingerprints).

Section 4(a)(2) requires the Secretary to establish additional standards for hazardous materials drivers. The Committee expects that the commercial motor carrier license of a driver approved by a State to transport hazardous materials will display an endorsement or other indication of that fact.

Section 4(a)(2)(A) ensures continued compliance with existing hazardous materials transportation regulations.

Under section 4(a)(2)(B), any commercial driver who wishes to operate a commercial motor vehicle carrying hazardous materials will be required to pass a written test demonstrating knowledge of regulations, basic properties and handling, and appropriate emergency response pertaining to the transportation of such materials. The Committee anticipates that individual States will develop and administer tests appropriate to their particular circumstances. However, the Committee also expects these tests to incorporate a number of questions which measure knowledge of certain basic concepts, as required by the Secretary.

Similary, section 4(a)(2)(C) requires drivers to demonstrate ability to handle the type of vehicle that will be used, as well as its safety equipment. The Committee notes that State-audited carrier certification of driver proficiency in this area may be an appropriate alternative for a State that is not prepared to undertake the testing itself.

Under section 4(a)(2), the Secretary shall have the ability to exempt from the special requirements of section 4(a)(2) those persons who only transport materials which, if released, would be considered "non-reportable" by DOT because they are in such limited quantity or of such limited hazard as to present a minimal danger to the driver or the public if a spill occurred; or consumer commodities which present a limited hazard during transportation due to their form, quantity, and packaging (e.g., nail polish). The Secretary may also exempt the drivers of such vehicles from all the bill's requirements if they do not meet the weight rating thresholds established under section 3(2)(A).

Furthermore, the Committee intends that the standards to be developed for drivers of hazardous materials should include, not not be limited to, the additional requirements outlined in this legislation. For example, the Committee would encourage the Secretary to continue to assess the feasibility of developing minimum age and driving experience requirements, as suggested in DOT's May 13, 1986, Notice of Proposed Rulemaking.

Section (A)(3)(A) gives the Secretary the authority to apply the penalties in section 521(b) of title 49, United States Code, to violators of this Act. These penalties are to be applied as they are to violators of other acts that are sanctioned by section 521(b) (e.g., the Motor Carrier Safety Act of 1984), except that the Secretary may assess a civil penalty of up to $5000 per violation under section 521(b)(2) and under section 521(b)(6) may apply a criminal penalty of up to $5000 and imprisonment of up to one year for each violation. In establishing these penalties, the Committee expects the Secretary to take into account the financial resources of commercial drivers and the relationship between employee and employer penalties established under the Motor Carrier Safety Act of 1984. Section 4(a)(3)(B) requires the Secretary to establish guide-

lines for penalties that the States would assess against individuals who violate the act.

(b) Requirements for persons who operate commercial motor vehicles

Section 4(b)(1)(A) requires that persons who operate commercial motor vehicles in commerce meet the requirements established under section 4(a). Section 4(b)(1)(B) prohibits persons from operating commercial motor vehicles with 0.04 BAC or more.

Section 4(b)(2)(A) establishes the schedule on which persons operating a commercial motor vehicle must obtain a license meeting the new standards established in section 4(a). Such a person must obtain the new license once the State in which he or she is domiciled adopts the new Federal licensing standards or September 1, 1989, whichever is earlier.

To ease the administrative burden of the new licensing requirements, certain drivers would not have to obtain the license immediately. These drivers would include those who on or before the earlier of two dates—the date on which the States in which they are domiciled adopts the standards or September 1, 1989—(1) possess a license entitling them to operate a commercial motor vehicle (in some States where there is no classified licensing, this would be a license to operate a passenger automobile); (2) have for 3 years had a record free of moving violations; and (3) have not been disqualified by the Secretary or had a commercial license suspended, cancelled or revoked by a State. These current commercial drivers with clean records would not have to meet the new standards until the time of their next renewal unless they have a moving violation, are disqualified, or have their current license suspended, cancelled or revoked.

Under section 4(b)(2)(B), persons who are not domiciled in any State (e.g., Canadians, Mexicans) or whose State of domicle does not adopt the new licensing standards could obtain, under rules established by the Secretary, such a license from a State that issues licenses meeting these standards.

(c) State programs for issuance and administration of the licenses

Section 4(c)(1) provides that, effective September 1, 1989, each State shall adopt and administer a classified licensing program for the issuance of licenses to operate commercial motor vehicles that includes testing and qualification standards for persons who operate commercial motor vehicles in commerce in accordance with the minimum Federal standards established by the Secretary under section 4(a). As originally introduced, S. 1903 provided for DOT issuance and administration of commercial drivers' licenses. The consensus at the July 15, 1986 hearing, however, was that State issuance and administration of licenses is preferable, because it saves money by building upon existing State licensing programs and it recognizes that, traditionally, driver licensing has been a State function.

A State would have the power to require its domiciliaries to meet licensing standards that are more stringent than the Federal minimum standards established by the Secretary. This would give each State latitude to design a program that best promotes safety. On the other hand, the free flow of commerce necessitates that each

State recognize a license issued by another State, if the license meets all the minimum Federal standards.

Section 4(c)(4) establishes record and license status reporting requirements with which the States must comply until there is a system for rapidly communicating this information. To counter the multiple licensing problem the States are to notify the Secretary of: (1) The proposed issuance of a commercial license; and (2) the issuance of such a license within 30 days after such issuance. To further ensure that bad drivers do not drive commercial vehicles, a State must also respond to another State's request for a commercial driver's license status and record information. An employer or prospective employer also can make such a request, and the State would have the option to respond. A State honoring an employer's or prospective employer's request is to do so to the extent permitted by law.

Under section 4(c)(5), once the rapid communication system provided in section 5 is available and information exchange is facilitated, the States would no longer have discretion but instead would be required to respond to information requests from employers and prospective employers to the extent permitted by law. Section 4(c)(5) also provides that the reporting requirements of section 4(c)(4) may be altered by regulation once the Secretary establishes a means of rapidly communicating reports. For example, once this system is established, a State may be required to report the issuance of a license in less than 30 days.

Section 4(c)(6), (7) and (8) restrict the issuance of commercial licenses to persons with acceptable safety records. Under section 4(c)(6), a State would be required to check an applicant's commercial license status and record for the three years prior to his or her application and not issue a license to a driver who, during that period, had been disqualified by the Secretary or had the driver's license cancelled, suspended or revoked by another State for cause. Under section 4(c)(7), a State must require an applicant to turn over his or her other commercial licenses. This requirement will help control the multiple licensing problem. Under section 4(c)(8), States could not issue commercial licenses to drivers who in the last 3 years have lost a non-commercial driver's license for cause or been convicted of any of the offenses specified in section 205(a) of the National Driver Register Act of 1982 (Public Law 97-364). This requirement recognizes that commercial vehicle operating privileges, which carry with them significant risks for the driver and the public, should not be granted to persons who have recently been convicted of a serious offense in a non-commercial vehicle (such as driving while intoxicated or leaving the scene of an accident) or have lost a non-commercial license for cause.

Under Section 4(c)(9), the States shall impose penalties that are the same as or more stringent than the guidelines established by the Secretary under section 4(a)(3)(B). Section 4(c)(10) provides that States shall suspend or revoke driver's licenses in accordance with the guidelines established by the secretary in section 4(a)(1)(F).

(d) Grants to assist states in complying with section 4(c)

Under this subsection, States that enter into an agreement with the Secretary to comply with all the provisions of section 4(c) would

receive grants for testing and licensing operators of commercial motor vehicles. The States could use this money to assist them in participating in the Commercial Driver's License Information System. Money would be "earmarked" for these grants from two existing grant programs, MCSAP and the NHTSA highway safety grant program authorized in section 402 of title 23, United States Code. The total amount available under section 402 for these licensing programs would not include NHTSA's administrative expenses. These expense can be a maximum of five percent of the available funds under section 402(c), but the Committee anticipates they will be closer to the 2 percent figure NHTSA currently "draws down" under section 402 programs.

This Federal money is not intended to be the sole source for necessary improvements to existing State commercial drivers' licensing systems. At the Committee's July 15, 1986 hearing, withnesses from industry, labor, citizen and State groups recognized that increases in driver licensing fees will also be needed to pay for these improvements. At present, it costs only a few dollars a year in most States for a commercial driver's license. Substantially higher license fees are charged by States for occupations with lower or comparable pay scales, such as hair dressing. Thus, it is appropriate for the States to charge higher fees for these professional driving licenses.

(e) Ensuring State compliance

Subsection (e) requires the Secretary to withhold highway funds from any State that is not in compliance after September 30, 1990. While the Committee realizes the States' concerns about withholding highway funds, the Committee believes that compliance by all States with minimum Federal licensing standards is critical to motor carrier safety and sees no other way to ensure such compliance than through the withholding of funds. The Committee notes in this regard that only 31 States have voluntarily participated in the classified license program and the Drivers' License Compact.

To determine State compliance, the Secretary will have to review State licensing programs to ascertain whether they meet the minimum Federal standards. With respect to the reporting requirements of sections 4(c)(4) and 4(c)(5), the Secretary should establish some means of auditing whether States are making the required reports.

Five percent of funds provided under section 104(b)(1), (2), (5) and (6), of title 23, United States Code, would be withheld in the first year of non-compliance and 10 percent of these funds would be withheld in each succeeding year of non-compliance. Section 4(e)(4) grants grace periods to non-complying States in recognition of the multi-year character of many of these State grant programs. It is patterned after comparable highway funding sanction grace period provisions which were enacted in section 4104 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272). Section 4(e)(4)(A) keeps these funds available for non-complying States until the normal lapse of funds. Section 4(e)(4)(B) provides for apportionment of these multi-year funds if a non-complying State comes into compliance before the end of the availability period. Section 4(e)(4)(C) indicates the time periods during which

these multi-year funds can be distributed if a State comes into compliance. Section 4(e)(4)(D) provides that the multi-year funds of a State that does not come into compliance during the time periods specified in section 4(e)(4)(A) will lapse. The Committee believes that these grace period provisions ease the impact of highway funding sanctions and encourage compliance.

SECTION 5—COMMERCIAL DRIVERS' LICENSE INFORMATION SYSTEM

Under section 5(a), the Secretary shall, not later than January 1, 1989, cause to be in operation a rapid information system pertaining to the driving status and licensing of commercial drivers. The term "cause to be in operation" is used to give the Secretary the flexibility either to establish the information system, to contract with someone outside of DOT for such a system, or to have the States establish the system themselves or by contract. The critical feature of this system is that it must provide a means of rapid communication. Experience with the National Driver Register has demonstrated that it is difficult for the States to use a labor-intensive, paper-based driver record communication system. Thus, once it is in place, a rapid communication system should be more effective and less costly than a paper-based system.

Section 5(b)(1) requires the Secretary to create a file containing commercial operators' names, birth date, and physical description. The Secretary is also required to include other information necessary to identify specifically operators (e.g., social security numbers, fingerprint information). The Committee believes that such a central file is important to combat the multiple license problem and such a file will be workable only if it includes unique identifier information.

Section 5(b)(2) requires the Secretary to provide a system of communicating license status and record information among States. This section is designed to give the Secretary the flexibility either to maintain a depository of license status and record information or provide a means of communicating this information (e.g., a "pointer" system analogous to the National Driver Register). At a minimum, the record information to be communicated would include the serious offenses listed in the National Driver Register Act of 1982.

Section 5(c)(1) gives requesting States, employers, and prospective employers access to the operators' license information. Either the Secretary or a State may be the appropriate party to respond to such a request, depending on whether under the system design the information requested is in a repository maintained by the Secretary or is maintained by a State.

Under section 5(c)(2), prospective employers are required to check the information system to determine whether a driver represents a safety risk. At present 49 CFR section 391.23 requires an employer to make an inquiry about the applicant's driving record during the preceding 3 years to the licensing agency in every State where the applicant held a license for those years. Also, 49 C.F.R. section 391.11(b)(7) requires that a driver hold a valid driver's license or permit. Under 49 C.F.R. section 391.11(a), no carrier may allow a driver to drive without a valid license. Requiring a carrier to use

the information system to inquire about a driver's record and to verify a valid license is merely a logical extension of these existing rules.

Section 5(d) provides that, once the rapid information system is available, the Secretary will issue regulations establishing appropriate time periods for State reporting of license and record information as required under sections 4(c)(4) and 4(c)(5). Under section 5(e), either the Secretary or a State, depending on who is the appropriate one to respond to requests for information, can defray its costs by collecting fees from users of the system. Section 5(f) authorizes up to $2 million of MCSAP funds to assist the Secretary in putting this system into operation. This $2 million is intended to defray start-up costs. It is expected that the fees collected under section 5(e) will pay for the system once it is in operation.

SECTION 6—FREQUENT INSPECTIONS

Section 6(a) amends the statute authorizing MCSAP grants to States for motor carrier inspections. Beginning with fiscal year 1989, it requires States receiving grants to: (1) Conduct frequent roadside inspections of commercial motor vehicles; (2) perform observations or tests to determine whether commercial drivers are intoxicated; and (3) promptly suspend for 1 year a commercial driver found to have a BAC of 0.04 percent or more or who refuses an alcohol test, and immediately and permanently revoke the operator's license for the second such offense. As discussed in relation to section 4(a)(1)(F), the terms prompt suspension and immediate revocation are to be interpreted in light of the fact that currently in some States license suspension and revocation is part of the criminal legal process. The States can also receive MCSAP funds to check commercial drivers for controlled substance use. A State is not required to conduct controlled substance checks to receive a MCSAP grant, but the Secretary is directed to encourage such efforts.

Currently, 49 States use MCSAP grants to perform inspections involving complete equipment and record inventories that take a minimum of 20 minutes. Section 6(a) is designed to make existing MCSAP-funded programs more effective by supplementing them with a large number of quick, driver-oriented inspections focused on alcohol and drug abuse.

As originally proposed, S. 1903 would have created a special fund composed of fines and penalties paid by violators of the FMCSR. These monies would have been used to fund more inspections of equipment, and of drivers for drug and alcohol abuse. The Committee decided to include these inspections within MCSAP because: (1) At present, less than $1,000,000 is collected each year for FMCSR violations, which is insufficient to fund a significant number of inspections; (2) collecting fines and penalties in a separate fund would give increased enforcement efforts the appearance of "bounty hunting;" and (3) these inspections could be added to existing, successful MCSAP efforts with minimal additional administrative expense.

SECTION 7--INCREASED AND EXTENDED FUNDING AUTHORIZATIONS FOR MCSAP

Title IV of the Surface Transportation Assistance Act of 1982 currently authorizes MCSAP through 1988, with authorization levels of $40 and $50 million for fiscal years 1987 and 1988, respectively. With 49 jurisdictions participating, this program has been an effective tool for removing unsafe commercial vehicles and drivers from our highways. This bill would add improved licensing and frequent, driver-oriented inspections as MCSAP grant uses. Thus, there is a need to increase MCSAP authorization levels, and there must also be a commitment to continue funding beyond fiscal year 1988 so that States can make the long-term personnel and equipment commitments essential to these programs. Accordingly, this section increases the authorization levels for fiscal years 1987 and 1988 to $50 and $60 million, respectively, and provides authorizations for fiscal years 1989 and 1990 of $70 million and $80 million, respectively.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

Section 521 of that title

§ 521. Civil penalties

(a)—(b)(11) * * *

(12) The provisions of this subsection shall apply to any violation of the Commercial Motor Vehicle Safety Act of 1986, except that—

(A) the amount to be assessed under this subsection for any such violation shall not exceed $5,000 for each such violation; and

(B) the exceptions regarding employees in paragraphs (2) and (6) of this subsection shall not apply to any violation of the Commercial Motor Vehicle Safety Act of 1986, but (i) in the case of paragraph (2) of this subsection, the amount to be assessed for a violation of the Commercial Motor Vehicle Safety Act of 1986 by an employee shall not exceed $5,000 for each such violation, and (ii) in the case of paragraph (6) of this subsection, the penalty to be imposed for a violation of the Commercial Motor Vehicle Safety Act of 1986 by an employee shall not exceed $5,000 for each such violation or imprisonment for a term not to exceed 1 year, or both.

[(12)]*(13)* The provisions of this subsection shall not affect any provision of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801–1812) or any regulation promulgated by the Secretary under such Act.

[(13)]*(14)* As used in this subsection, the terms "commercial motor vehicle:, "employee", "employer", and "State" have the meaning such terms have under section 4 of the Motor Carrier Safety Act of 1984.

THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

Section 402 of that Act

GRANTS TO STATES

SEC. 402. (a) * * *

(b)(1) The Secretary shall formulate procedures for any State to submit a plan whereby the State agrees to adopt, and to assume responsibility for enforcing Federal rules, regualtions, standards, and orders applicable to commercial motor vehicle safety, or compatible State rules, regulations, standards, and orders. Such plan shall be approved by the Secretary if, in the Secretary's judgment, the plan is adequate to promote the objectives of this section, and the plan—

(A) designates the State motor vehicle safety agency responsible for administering the plan throughout the State;

(B) contains satisfactory assurances that such agency has or will have the legal authority, resources, and qualified personnel necessary for the enforcement of such rule, regulations, standards, and orders;

(C) gives satisfactory assurances that such State will devote adequate funds to the administration of such plan and enforcement of such rules, regulations, standards, and orders;

(D) provides a right of entry and inspection sufficient to enforce such rules, regulations, standards, and orders;

(E) provides that all reports required pursuant to this section be submitted to the State agency, and that such agency make available upon request to the Secretary all such reports;

(F) provides that such State agency will adopt such uniform reporting requirements and use such uniform forms for recordkeeping, inspection, and investigations as may be established and required by the Secretary; [and]

(G) requires registrants of commercial motor vehicles to make a declaration of knowledge of applicable Federal and State safety rules, regulations, standards, and order[.]*; and*

(H) with respect to any fiscal year beginning with fiscal year 1989, provides for the adoption and implementation of an effective program to conduct inspections of commercial motor vehicles, which program shall provide—

(i) that commercial motor vehicles are inspected frequently (as determined by the Secretary), and that such inspections are conducted at roadside;

(ii) for the administration of observations or tests, or both, to determine the blood alcohol content level of the operator of a commercial motor vehicle; and

(iii) for the prompt suspension, for a period of not less than 1 year, of the operator's license of any individual who is determined, as a result of an observation or test adminis-

tered under clause (ii) of this subparagraph, to have a blood alcohol content level of 0.04 percent or more while operating a commercial motor vehicle or who refuses to submit to such a test, and for the immediate revocation of the operator's license of any individual who has been twice determined, as a result of such an observation or test, to have a blood alcohol content level of 0.04 percent or more while operating a commercial motor vehicle or who has twice refused to submit to such a test.

(2) * * *

(3)(A) As part of a grant made under this subsection, the Secretary may also provide funds to encourage the States to adopt and implement programs providing for the administration of tests to determine whether the operator of a commercial motor vehicle is under the influence of a controlled substance while operating such motor vehicle.

(B) For purposes of this subsection, the term "controlled substance" shall have the meaning given to such term in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6)).

(c)–(d) * * *

Section 404 of that Act

AUTHORIZATIONS

SEC. 404. To carry out the purposes of section 402 of this title, there is authorized to be appropriated out of the Highway Trust Fund not to exceed $10,000,000 in the fiscal year ending September 30, 1984, not to exceed $20,000,000 in the fiscal year ending September 30, 1985, not to exceed $30,000,000 in the fiscal year ending September 30, 1986, not to exceed [$40,000,000] *$50,000,000* in the fiscal year ending September 30, 1987, [and] not to exceed [$50,000,000] *$60,000,000* in the fiscal year ending September 30, [1988.] *1988; not to exceed $70,000,000 in the fiscal year ending September 30, 1989; and not to exceed $80,000,000 in the fiscal year ending September 30, 1990.* Appropriated funds authorized by this section shall be used to reimburse States pro rata for the Federal share of costs incurred. Grants made pursuant to the authority of this part shall be for periods not to exceed one fiscal year, ending at the end of a fiscal year.

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